

**REMARKS**

Claims 1 and 2 are pending in this application. By this Amendment, claim 1 is amended. The amendment introduces no new matter as it simply corrects a misspelling. Reconsideration based on the above amendments and the following remarks is respectfully requested.

The Office Action, in paragraph 3, indicates that claim 2 recites allowable subject matter. Applicants appreciate this indication of allowability and respectfully submit that claim 1, upon which claim 2 depends, is allowable for at least the reason discussed below.

The Office Action, in paragraph 2, rejects claim 1 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,428,509 to Emerson et al. (hereinafter "Emerson"). This rejection is respectfully traversed.

Emerson discloses a dispensing device for continuous aerosol dispensing (Abstract). The apparatus disclosed in Emerson includes a skirt having a lower edge adapted for attachment to an aerosol container, an actuator hinged to the skirt and engagable with valve stem and a discharge orifice in the button in fluid communication with the valve stem, the skirt extending upwardly to form a wall around the actuator button and to recess the button (Abstract).

Claim 1 recites, among other features, a cap for mounting on an aerosol container comprising a top plate member having a periphery connected to an upper end portion of the tubular body member so as to close a top surface of the tubular body member, said top plate member having an aperture and a lid for closing the aperture, said lid having a fixed end which is connected to a margin of the aperture through a bendable line, such that the lid is able to turn from a first position in which the lid closes the aperture to a second position in which the lid is protruding into the tubular body member so as to get in touch with a top face of the discharge head that is pressed generally downwardly.

The Office Action equates the actuation button (26) of Emerson with the lid recited in claim 1, but does not explain which element of Emerson is believed to correspond to a "top plate." Applicants respectfully submit that, in fact, Emerson does not disclose a "top plate" that satisfies the recitation of "top plate" in claim 1. For example, Emerson does not disclose a top plate that "close[s] a top surface of the tubular body member," or that has an aperture and lid for closing the aperture. See, for example, Fig. 2 of Emerson which shows that there is an air gap between the alleged "tubular body member" 16 and the alleged "lid" 26, along almost the entire inner periphery of the "tubular body member" 16. There is simply no structure in Emerson that closes a top surface of the tubular body, and/or there is no structure in Emerson that closes an aperture in a top plate.

Additionally, Applicants respectfully note that "closing a top surface" and/or "closing an aperture" in the Emerson device would destroy the operation of the Emerson device. Specifically, the Emerson device is for "continuous aerosol dispensing," as outlined above, and is intended for use with, e.g., insecticide foggers. Therefore, it is essential that the Emerson device always be open and allow aerosol to exit through the top so that it may become airborne and fill an entire room, for example.

Applicants, therefore, respectfully submit that Emerson neither teaches nor suggests all of the features recited in independent claim 1. Specifically, Emerson fails to disclose a top plate member having a periphery connected to an upper end portion of the tubular body member so as to close a top surface of the tubular body member, said top plate member having an aperture and a lid for closing the aperture, said lid having a fixed end which is connected to a margin of the aperture through a bendable line, such that the lid is able to turn from a first position in which the lid closes the aperture to a second position in which the lid is protruding into the tubular body member so as to get in touch with a top face of the

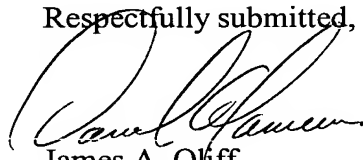
discharge head that is pressed generally downwardly, despite the assertions to the contrary in the Office Action.

Accordingly, reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. §102(b) as being anticipated by Emerson are respectfully requested.

In view of the foregoing, Applicants respectfully submit that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claim 1, in addition to the allowable subject matter of claim 2, are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned representative at the telephone number set forth below.

Respectfully submitted,



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JAO:DAT

Attachment:  
Petition for Extension of Time

Date: November 2, 2004

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